RICHMOND TELEPHONE COMPANY

CORNER OF ROUTES 295 & 41, P.O. BOX 75, RICHMOND, MASSACHUSETTS 01254-0075 TEL: 413 698-2255

April 12, 1999

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth St. S. W.
Room TW-A325
Washington, DC 20554

RE: In the Matter of Notice of Proposed Rulemaking,
Inter-Carrier Compensation for ISP-Bound
Traffic, CC Docket No. 99-68

Dear Ms. Roman Salas:

Enclosed herewith for filing with the Commission are the original and four copies of the Comments of Richmond Telephone Company in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the duplicate copy of this letter furnished herewith for such purpose and remitting same to bearer.

Sincerely,

RICHMOND TELEPHONE COMPANY

Lorinda Ackley-Mazur
Executive Vice President

cc: Diskette International Transcription Service
Diskette Wanda Harris

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
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Notice of Proposed Rulemaking,	)	
Inter-Carrier Compensation for	)	CC Docket No. 99-68
ISP - Bound Traffic	)	

Comments of RICHMOND TELEPHONE CO.

The Richmond Telephone Company (Richmond), an incumbent local exchange carrier (ILEC) located in Richmond, Massachusetts, respectfully submits these Comments in the above-captioned proceeding.[1]

I. INTRODUCTION

Richmond is a very small ILEC, serving about 1,140 access lines in a single exchange. It has only 4 full time employees. Richmond receives its interstate access settlements based on jurisdictional cost separations studies submitted to, and approved by, the National Exchange Carrier Association (NECA).

The rapidly increasing use of Richmond's switching and network facilities to handle Internet traffic is putting a tremendous strain on the limited resources of this very small ILEC.

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[1]Inter-Carrier Compensation for ISP-Bound Traffic, Notice of Proposed Rulemaking, CC Docket No. 99-68, Rel. February 26, 1999. Comments due April 12, 1999, Reply Comments due April 27,. 1999 (NPRM)

Richmond has already had to add 24 EAS trunks, for instance, just to deliver Internet traffic to an ISP located in the much larger, neighboring exchange of Pittsfield.

Because Internet usage is growing at such a phenomenal rate, another 24 EAS trunks are currently needed to assure that customers trying to make traditional, non-Internet, "toll free" calls between Richmond and Pittsfield won't experience serious blockages. The high amount of usage associated with 48 additional EAS trunks is straining the capacity of Richmond's small central office digital switch.

At the same time as Richmond is facing the prospect of extremely costly plant additions, it is also seeing a negative effect on the interstate portion of its cost separations study. That is, the treatment of ISP-bound traffic as "local" in the study is decreasing its interstate allocation factors. The increasing counts of EAS circuits also allocate more costs to local (or intrastate) from interstate.

Richmond will, because of the current treatment of ISP-bound traffic, receive proportionately less in interstate access revenues at the same time as it making significant plant additions to handle this ever-increasing traffic. It therefore asks the Commission to carefully consider the following.

II. ISPs SHOULD BE ASSESSED SOME LEVEL OF FEDERAL CHARGES

The Declaratory Ruling[2] issued with the NPRM finds "that ISP-bound traffic is

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[2]Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Declaratory Ruling, CC Docket No. 96-98, Rel. February 26, 1999. (Declaratory Ruling).

jurisdictionally mixed and appears to be largely interstate."[3] The Commission, however, continues to exempt Enhanced Service Providers (ESPs), which include ISPs, from the application of interstate access charges.[4]

While the Commission has a "strong federal interest in ensuring that regulation does nothing to impede the growth of the Internet - which has flourished to date under our 'hands off' regulatory approach- or the development of competition,"[5] it has determined that ISP-bound traffic is primarily interstate.

It appears that some system of interstate charges to ISPs needs to be developed to help LECs recover the cost of their switching and network facilities used for interstate purposes. In this case, the ISP is the cost causer and therefore should be at least partially responsible for compensating the ILEC for use of its plant.

A compromise might entail the development of federal rates that are something less than the full interstate access charges paid by IXCs. In this way, Internet usage would continue to be encouraged, but there would be some level of revenues to help ILECs recover their costs and earn a fair rate-of-return.

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[3]Declaratory Ruling, ¶ 1.

[4]Id, ¶ 20.

[5]Id, ¶ 6.

III. INTERNET USAGE SHOULD BE TREATED AS INTERSTATE IN COST SEPARATIONS STUDIES.

The Commission states that "with respect to current arrangements...for those LECs subject to jurisdictional separations both the costs and the revenues associated with such connections will continue to be accounted for as intrastate."[6]

These current arrangements, however, which include the assignment of increasingly large amounts of Internet usage to the local category in the development of separations factors, can cause tremendous hardship to small ILECs such as Richmond. The unweighted interstate DEM factor decreases, artificially allocating more switching and related costs to the local jurisdiction, which in turn reduces the ILECs' share of interstate access revenues.

In fact, Richmond's traffic studies show an approximate 27 minute per call holding time for Internet traffic, compared to 3 to 4 minutes per call for regular local traffic. This has equated to a huge growth in the total local minutes used in Richmond's cost study, from about 570,000 minutes per month in 1997 to some 1,035,000 minutes per month in 1998. The unweighted interstate DEM factor decreased over 5 full points, from 27.6% to 22.37.

And the problem is getting worse. It is estimated that Internet traffic alone is now accounting for over 900,000 minutes per month, which if treated as local will produce another large downward effect on the 1999 interstate DEM.

Now, with the Commission's decision that this usage is largely interstate, it would seem

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[6]NPRM, ¶ 36.

appropriate to remove it from the local jurisdiction in the cost separations process, treating it instead as interstate in the development of jurisdictional separations factors.

Coupled with the assignment of facilities such as EAS circuits used to deliver ISP traffic to a "jointly used" (for interstate and intrastate) category, the treatment of Internet usage as interstate would help ILECs to appropriately recover their costs of providing what has been determined to be primarily an interstate service.

Currently, of course, ISPs are exempt from paying interstate access charges, so there are no revenues to cover these interstate costs. If interstate rates (even at less than full access charges) are developed as recommended above, there will be a match of interstate costs and revenues.

An interim solution, pending resolution of the question of interstate charges, would be to treat ISP-bound traffic, related costs, and revenues as "unregulated." This would be consistent with the Commission's goals of fostering Internet usage and encouraging competition, while still allowing ILECs the opportunity to recover their costs and earn a fair rate-of-return.

Under this arrangement, ISP bound traffic would be excluded totally from jurisdictional cost study factor development. Counts of EAS circuits and other facilities associated with (or added for) Internet traffic would also be excluded from the study, so that there would be little or no overassignment of costs to "local."

The exclusion of Internet usage and related costs from the jurisdictional separations

process is the fairest method of resolving this issue, at least until interstate charges or other interstate tariff rates are implemented. It is certainly not equitable to drastically reduce an ILEC's interstate access revenues by treating as local huge amounts of what the Commission has defined as interstate traffic, particularly when no revenues exist on the state or local side to cover these costs.

IV. LECs SHOULD BE COMPENSATED FOR THEIR PROVISION OF EAS FACILITIES TO DELIVER INTERNET TRAFFIC

As the Commission notes in the Declaratory Ruling, "Section 251(b)(5) of the Act requires all LECs to establish reciprocal compensation arrangements for the transport and termination of telecommunications'."[7] The Commission itself "acknowledge(s) that, no matter what the payment arrangement, LECs incur a cost when delivering traffic to an ISP that originates on another LEC's network."[8]

Actually, as is the case with Richmond, the originating LEC also incurs costs when it delivers traffic via EAS to another LEC's exchange where the ISP is located. The phenomenal growth in Internet usage has forced Richmond and many other small LECs to add substantial numbers of EAS circuits, at significant cost. Under most existing EAS arrangements, however, no additional revenues are derived form the additional usage or facilities.

The Commission's findings in the Declaratory Ruling require some form of compensation for use of these EAS facilities. EAS has traditionally been a voice grade, intrastate service

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[7]Declaratory Ruling, ¶ 7.

[8]NPRM, ¶ 29.

allowing customers in one exchange to terminate calls to another exchange on a "toll free" basis. The Commission, however, has defined packet-switched, non voice-grade ISP-bound calls as components of "end-to-end transmissions," a "substantial portion" of which are interstate.[9] This clearly constitutes interstate use of EAS facilities.

While almost every other carrier involved with ISP-bound traffic receives some form of compensation, the LEC providing EAS facilities does not. ISPs benefit greatly from the "free" delivery of Internet traffic over EAS. IXCs are compensated for the provision of facilities from the ISP to the network. Many LECs are compensated for terminating the ISP traffic, either through reciprocal agreements or the provision of business lines to the ISP.

But LECs such as Richmond, whose EAS facilities are used to originate the Internet traffic, and who are increasingly being forced to add large numbers of EAS circuits so that their non-Internet customers don't encounter continual blockages, are not compensated for provision of these facilities.

Local rate increases could, of course, help offset the rapidly increasing switching and trunking costs arising from the heavy Internet use of EAS facilities. But large, across-the-board increases are simply not fair when specific cost causers - ISPs and their customers - are imposing the costs. Substantial local rate increases for small, rural LECs such as Richmond, particularly when caused by an interstate service, also threaten universal service – a result directly opposed to Commission policies.

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[9]Declaratory Ruling, ¶ 18.

The Commission, therefore, must assure that some other form of cost recovery is implemented to help these LECs recover their Internet-related EAS costs. The Telecommunications Act of 1996 requires reciprocal compensation for the costs of such transport. The Commission confirms that LECs incur these costs, and that the usage which gives rise to them is interstate.

As recommended above, Internet costs should be recovered through the interstate cost separations process. Until that time, however, LEC compensation must come from intrastate tariffs or inter-carrier compensation agreements. Some possible compensation mechanisms include:

- The use of dedicated, rather than EAS trunks, with the cost passed on to the ISP or their customers.
- The use of 800 or other "toll free" numbers in lieu of EAS facilities.
- Inter-carrier agreements where the ISP or the terminating LEC compensates the originating LEC for use of its EAS facilities.
- Usage sensitive pricing for ISP customers that use EAS facilities.

The Commission has defined ISP - bound traffic as interstate, and has acknowledged that LECs incur costs in delivering such traffic. It should thus establish broad guidelines for state commissions to follow in prescribing LEC compensation for Internet use of EAS facilities. And it must assume final authority in cases where the state commissions, working with LECs and ISPs, fail to resolve problems concerning the type or level of such compensation.

V. CONCLUSION

The Commission, which has determined that ISP - bound traffic is interstate, should help

small, rural LECs recover their costs of delivering this traffic.

The treatment of Internet usage, costs and facilities as interstate for cost separations purposes will allow companies such as Richmond to properly recover their costs. In the interim, exclusion of this usage and related items in jurisdictional cost studies will prevent the inappropriate assignment of Internet costs to the local (or intrastate) jurisdiction.

The development of guidelines requiring LECs to be fairly and equitably compensated for the use of their EAS facilities to deliver ISP-bound traffic will help relieve the significant cost of carrying this interstate traffic.

Respectfully submitted,

Richmond Telephone Company

By: _____

Lorinda Ackley-Mazur
Executive Vice President
1416 State Rd.
Richmond, MA 01254
(413) 698-2255